

I, too, am concerned about the remarks of some of our colleagues. I found some of those remarks to be, in my judgment, a disbelief. I could not believe they were said. But bottom line, this morning, in the Armed Services Committee, in a formal meeting of the committee, I invited each Senator present, on both sides of the aisle, to address opening statements on the events of the last 24, 48 hours. I say to my distinguished leader and to my colleagues, I felt their responses were very responsible and, indeed, showing support for the men and women in the Armed Forces and the Commander in Chief, who must make those decisions to lead them.

I yield the floor.

RECESS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now recess until 2:15 p.m. for the weekly party meetings, provided that recess time be charged as under the previous order.

There being no objection, the Senate, at 12:58 p.m., recessed until 2:15 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

CONGRESSIONAL BUDGET FOR THE UNITED STATES GOVERNMENT FOR FISCAL YEAR 2004—Continued

The PRESIDING OFFICER. The Senator from Oklahoma is recognized.

Mr. NICKLES. Mr. President, I yield the Senator from Utah 20 minutes.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I ask unanimous consent that the time I use be charged against the resolution.

The PRESIDING OFFICER. Without objection, it is so ordered.

MEDICAL LITIGATION CRISIS

Mr. HATCH. Mr. President, today I rise to speak about the medical liability and litigation crisis in our country.

This is a crisis that is preventing patients from accessing high-quality health care—or, in some cases, any care at all—because doctors are being driven out of practice. It is a crisis that is needlessly increasing the cost of health care for every American.

This is not the first time we have addressed this issue. As many of you will recall, we debated, and passed, medical litigation relief in the Commonsense Product Liability and Legal Reform Act back in 1995. Unfortunately, the language we passed was stripped from that bill in conference.

I am sorely disappointed that—in the ensuing eight years—we have not addressed this problem. As a result, the situation has become worse, not better; the problem has expanded, not shrunk. We must act now if we are to fix the crisis in health care delivery this has caused in many parts of our country.

I was pleased last summer when President Bush announced his desire to address this issue. I am even more pleased that the President has continued to emphasize the importance of the problem and the need for reform in speeches around the country, and in his State of the Union Address. We in the Senate welcome the President's support in this effort.

Make no mistake. We have a health care crisis in this country, one that is due in large part to litigation that is out of control. But not all Americans may be aware of just how serious are the ramifications of this crisis.

This map, with data supplied by the American Medical Association, shows the states that currently are experiencing a medical liability crisis and those that are showing signs of developing a crisis. The 18 red states are in crisis. The 27 yellow states are showing problem signs. Only five states are currently "ok". On a map with last year's data, only 12 states were in crisis. The problem is growing and it reaches from coast to coast.

I ask unanimous consent to have printed in the RECORD a July 18, 2002, Associated Press article, "Soaring Malpractice Insurance Squeezes Out Doctors, Clinics," that highlights some of the problems faced by patients and doctors.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Associated Press, July 18, 2002]

SOARING MALPRACTICE INSURANCE SQUEEZES OUT DOCTORS, CLINICS (By Theresa Agovino)

The shock from Jim Lawson's July 4 death in a Nevada auto accident was felt well beyond his family and friends.

The two-car crash on a busy street leading to Las Vegas airport came just one day after the nearest trauma clinic, at the University Medical Center, closed down. The 58 orthopedic surgeons who rotate through the hospital had insisted on relief from the soaring cost of medical malpractice insurance.

No one can be sure his death, confirmed at an emergency room an hour away, could have been avoided. Trauma centers generally offer more effective attention for accident victims.

But it prompted a quick July 13 reopening of the university center. Some 10 to 15 of the doctors agreed to become temporary employees of the county hospital, limiting their liability to \$50,000, while the governor tries to enact legislation that would restrict medical malpractice awards.

On a much broader level, it brought new attention to a national problem that doctors say is obliging many of them to flee certain states or give up certain specialties—or the entire profession—because of skyrocketing insurance premiums linked to soaring jury awards.

The impact of the trauma center's closure in Las Vegas was summed up by its director, Dr. John Fildes: "The standard of care in our community was set back 25 years."

The number of communities suffering similar problems is mushrooming.

This summer, two Pennsylvania hospitals, one Arizona hospital and a clinic in Oregon closed their obstetrics units.

Several counties in upstate New York have no obstetricians covering night shifts.

Soon, two counties in Pennsylvania won't have a neurosurgeon. Seven hospitals on the Mississippi coast share 3 neurosurgeons, one of whom, Terry Smith in Biloxi, is likely to leave next month because he can't find insurance.

Thirteen insurance companies have refused to cover Dr. Smith, who currently pays \$65,000 in annual premiums. One company may agree to cover him, but it is likely to cost \$100,000, an amount he says he can't afford.

Smith said he often puts in seven-day weeks now to meet the community's needs.

"This is an area with lots of poor and minority people, so you as a doctor feel you're doing something important," Smith said. "I feel guilty about leaving but I just don't have a choice."

"The two guys I'm leaving behind are friends of mine and they'll be working even harder," he said.

Mississippi is one of 12 states where rising premiums, tied to awards by state juries in malpractice cases, are creating a crisis, according to the American Medical Association. The others are New York, Nevada, Florida, Ohio, Texas, Georgia, Pennsylvania, New Jersey, Washington, Oregon and West Virginia.

Because of risks associated with certain medical conditions and forms of treatment, some specialties pay especially high rates, and those rates are compounded by being charged in states where laws place fewer limits on jury awards.

For example, while premium increases this year average about 15 percent nationwide for all practices, rates for obstetricians and gynecologists in Pennsylvania are set to balloon by anywhere from 40 percent to even 81 percent, according to Medical Liability Monitor, a trade publication. In West Virginia, they are catapulting anywhere from 29 percent to 36 percent.

The average jury award for medical malpractice doubled to \$1 million in the six years ending in 2000, according to Jury Verdict Research, a private database used by lawyers, insurers and doctors. Lawyers who handle malpractice cases are critical of the database, pointing out that it is not comprehensive and contending that its findings are inflated.

In any event, verdicts of more than \$1 million are common in states like Mississippi and Nevada. In the first six months of this year, there were five jury awards in Mississippi and the average verdict was \$5.6 million, according to the state's medical association.

"I think juries are just frustrated with managed care and health care in general, so they take it out on doctors," said Dr. Michael Daubs, an orthopedic surgeon who said he may leave Las Vegas if his rates keep rising.

He says he has never been sued but his insurance jumped \$20,000 to \$60,000 a year. He has applied for medical licenses in three other states.

Some insurance companies are leaving the medical liability business. St. Paul Cos, the second largest provider of medical malpractice insurance, announced last December it would stop writing policies, leaving 42,000 doctors searching for coverage. St. Paul said it lost close to \$1 billion on its medical malpractice line last year.

Smaller insurers are also cutting back or leaving the business. Pennsylvania's second-largest medical malpractice insurer, Phico Insurance Co., failed earlier this year and was liquidated by the state.

Legislation has been introduced in Congress that would limit the pain and suffering portion of malpractice awards to \$250,000. The bill, intended to override state laws,